

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)**

IN RE:	)	
	)	
MICHAEL JOSEF BASL,	)	Cause No. 17-32341-KLP
	)	
Debtor,	)	
	)	
	)	
WILLIAM ROBERT MORENO,	)	
	)	
and	)	
	)	
SHARON KAY MORENO,	)	
	)	<b>ADVERSARY PROCEEDING</b>
Plaintiffs,	)	
	)	
v.	)	No. 17-04495-KLP
	)	
MICHAEL JOSEF BASL,	)	
	)	
Defendant.	)	
	)	

**PLAINTIFFS' OBJECTIONS TO DEFENDANT, MICHAEL JOSEF BASL'S  
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

COME NOW Plaintiffs, WILLIAM ROBERT MORENO and SHARON KAY MORENO (collectively, "Morenos"), by counsel, pursuant to this Court's order of 2/13/18, and file their objections to Basl's proposed findings of fact and conclusions of law.

**I. Findings of Fact**

The Morenos object to Basl's Proposed Statement of Facts, *in toto*, because the record does not support his self-serving *post hoc* rationalizations and half-truths (at best). The evidence submitted and received by the Court, consisting of the state court final judgment, makes clear that Basl acted with either the specific intent to place Moreno in reasonable fear of bodily injury

or death, *or* that Basl *knew* or should have known that his conduct would place Moreno in reasonable fear of those consequences. The reasonable fear was of an intentional—not a merely reckless or negligent—act directed against Moreno that could lead to his death or bodily injury.<sup>1</sup> Unlike defamation, which can occur through negligence or recklessness, a person cannot be held liable for stalking based merely on negligent or reckless conduct. It requires either conduct specifically directed at an individual with the intent to place that person in reasonable fear of death or bodily injury, *or* knowledge or imputed knowledge that his conduct would in fact place that individual in reasonable fear, thus satisfying the “substantial certainty of producing injury.” *In re Kamps*, 575 B.R. at 73. As explained in Morenos’ Proposed Findings of Fact and Conclusions of Law, the entry of a final judgment against Basl for stalking is itself sufficient to meet the “willful and malicious” standard of §523(a)(6).

## **II. Conclusions of Law**

Basl’s conclusions of law are based upon his representation of the jury instructions given to the jury that decided the state court case. There was no evidence submitted to support his claim that the instructions he cited were, in fact, the ones given by the trial court. For that reason, the Court should disregard Basl’s conclusions of law.

WHEREFORE, Plaintiffs, WILLIAM ROBERT MORENO and SHARON KAY MORENO, respectfully move this Honorable Court to disregard Basl’s statement of facts and conclusions of law, and to adopt, instead, Plaintiffs’ proposed findings of fact and conclusions of law, and to enter an order to the effect that \$372,573.75, consisting of \$100,000 in compensatory damages; \$105,907.08 in attorney’s fees and costs, and \$166,666.67 in punitive damages, awarded against Debtor and in favor of WILLIAM ROBERT MORENO, on his civil claim for stalking, awarded pursuant to the Loudoun County Circuit Court’s 10/27/16 final order, is non-

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<sup>1</sup> There is no evidence that Basl intended to sexually assault Moreno.

dischargeable in bankruptcy, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

WILLIAM ROBERT MORENO

and

SHARON KAY MORENO,

By Counsel

/s/ Phillip B. Leiser, Esq.

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VASB # 41032

*Counsel for Plaintiffs William Robert Moreno and Sharon Kay Moreno*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of March 2018, this document was filed through the Electronic Case Filing system, and that copies will be sent electronically to the registered participants identified in the Notice of Electronic Filing, and a copy will be sent by first-class mail, postage pre-paid, on 31 March 2018 to Michael Josef Basl, Defendant/Debtor, at:

8106 Strath Road

Henrico, Virginia 23231-7416

/s/ Phillip B. Leiser, Esq.